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June 14, 2019

VIA ECF

The Honorable Jack B. Weinstein
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Kurtz v. Kimberly-Clark Corp., et al., No. 1:14-cv-1142-JBW-RML
Belfiore v. The Procter & Gamble Co., No. 1:14-cv-4090-JBW-RML

Dear Judge Weinstein:

We write on behalf of plaintiff D. Joseph Kurtz in the above-referenced *Kurtz* matter in response to the Court's June 7, 2019 Order requiring the parties to "file a proposed schedule accounting for any discovery, briefing, a status conference, and the evidentiary hearing." ECF No. 316 at 2.

I. Unopposed Request for Leave to Submit a Proposed Schedule Until After the Proposed June 18, 2019 Status Hearing

The deadline to submit a proposed schedule is today, June 14, 2019. See ECF No. 316. Given the Court's availability to hold a conference, at noon on June 18, 2019, to address the scope and timing of the evidentiary hearing, and that all parties in the *Kurtz* and *Belfiore* matters have conveyed to case manager June P. Lowe that they are also available at that time, it appears reasonable for the parties to confer and submit a proposed schedule within a day or two after that status conference. The slight adjournment will afford the parties an opportunity to make a more informed submission based on the discussion, and any guidance gleaned, from the June 18 conference.¹

¹ We conveyed this proposal to counsel for defendants Kimberly-Clark Corporation ("Kimberly-Clark") and Costco Wholesale Corporation ("Costco") (collectively, "Defendants") in the *Kurtz* action. Counsel for Defendants said they do not oppose the request.

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II. Plaintiff's Scheduling Proposal, Pending Any Modifications Impacted by the Proposed Status Hearing

After this Court's May 16, 2019 Order setting an evidentiary hearing, without delay, plaintiffs in both the *Kurtz* and *Belfiore* actions closely coordinated to ascertain and gather any additional information or data that may be relevant to the evidentiary hearing (e.g., re-engaging discussions with third-party IRI regarding sales data). Both first- and third-party discovery has been stayed since early 2015 and neither plaintiffs' counsel nor its expert could perform any updated work from that time to the present. As counsel for plaintiff Kurtz, we are committed to working quickly to obtain any additional data and are equally committed to promptly provide Defendants any information we receive from third-parties. We trust that Defendants will be timely in producing any information requested by plaintiffs in anticipation and preparation for the evidentiary hearing.

As for availability for the evidentiary hearing, Plaintiff's expert, Colin Weir, relayed that he can be available to testify on July 26, 29, 30 or August 1, 2019. He is also available the weeks of August 5th and August 12th. Plaintiffs' counsel will endeavor to maneuver our schedule to accommodate the Court's and expert witnesses' schedules and availability.

We thank the court for it's time and attention to this letter submission.

Respectfully submitted,

/s/ Mark S. Reich

MARK S. REICH

MSR:paf

cc: All Counsel (via ECF)